

Application No. 09/856,431

**REMARKS**

Applicants would like to thank the Examiner for the courteous and helpful interview of March 31, 2004. During the interview, the rejections over JP 11-31534 were discussed. The Examiner also agreed to obtain a full translation of said reference.

An error in the translation resulted in the substitution of the word "volume" instead of the word "weight" appearing in the Japanese original. The specification and claims were therefore amended to correct this error according to the herein enclosed corrected translation.

The rejections of the claims under 35 U.S.C. § 102(b) in view of JP 11-31534, and under 35 U.S.C. § 103(a) in view JP 11-31534 and further in view of Visco, JP 4-328278, Shimizu and Simon, respectively, are respectfully traversed. The secondary battery taught by JP 11-31534 does not deposit lithium metal on the negative electrode when the open circuit voltage of the battery is below overcharging voltages.

JP 11-31534 teaches a secondary battery where the negative electrode where the deposit of lithium metal on the negative electrode during charging is suppressed (paragraph [0006]). This is attained by using a negative electrode material with a voidage between 30 vol% and 45 vol%, and a negative electrode material with a voidage between 20 vol% and 30 vol%. The higher voidage of the negative electrode material ensures that all the lithium released by the positive electrode during charging is intercalated in the negative electrode. The deposition of lithium metal on the negative electrode is therefore prevented (paragraph [0008]), and may be attained only by overcharging the battery.

In contrast, the present application claims a secondary battery where the deposition of lithium is not suppressed. By using a negative electrode that is capable of intercalating fewer lithium ions than those that are released by the positive electrode during charging, the lithium metal deposits on the negative electrode prior to reaching an overcharge voltage (pages 16-17; examples 2-1 and 2-4). Applicants therefore respectfully request withdrawal of the rejections.

Claims 24-28 were provisionally rejected on being not patentably distinct from the subject matter claimed in commonly copending Application No. 10/126,895. Although

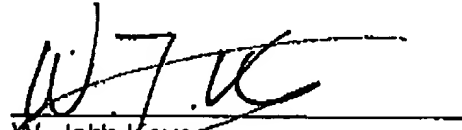
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Applicants disagree, in order to expedite prosecution, enclosed is a Terminal Disclaimer to cure this ground rejection.

Claims 24-28 were provisionally rejected on being not patentably distinct from the subject matter claimed in commonly pending Application No. 09/954,806. Although Applicants disagree, in order to expedite prosecution, enclosed is a second Terminal Disclaimer to cure this ground of rejection.

Claims 1-43 are currently active and pending in the application. Early passage to allowance is respectfully requested.

Respectfully submitted,

  
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